

1 JOSEPH P. RUSSONIELLO (CABN 44332)
United States Attorney

2 BRIAN J. STRETCH (CABN 163973)
Chief, Criminal Division

4 KATHERINE B. DOWLING (CABN 220767)
Assistant United States Attorney

5 450 Golden Gate Avenue, Box 36055
6 San Francisco, California 94102
7 Telephone: (415) 436-6833
Facsimile: (415) 436-7234
Katherine.Dowling@usdoj.gov

9 Attorneys for Plaintiff

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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

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15 UNITED STATES OF AMERICA,) CR No. 08-70879 EMC
16 Plaintiff,) STIPULATION AND [PROPOSED] ORDER
17 v.) WAIVING TIME UNDER FED. R. CRIM. P.
18 MARIO JUAREZ,) 5.1 and EXCLUDING TIME UNDER 18
19 Defendant.) U.S.C. § 3161
20 _____)

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22 This is the fifth request to extend the time for the preliminary hearing under Federal Rule of
23 Criminal Procedure 5.1, to extend the 30-day time period for indictment and exclude time under
24 the Speedy Trial Act. Parties anticipate that this will be the last extension necessary.

25 The parties request a further extension until June 15, 2009. With the agreement of the parties
26 the Court enters this order setting a new preliminary hearing date of June 15, 2009 at 9:30 a.m.
27 before the duty magistrate judge, extending the time for the preliminary hearing under Federal
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1 Rule of Criminal Procedure 5.1, extending the 30-day time period for indictment and excluding
2 time under the Speedy Trial Act from May 15, 2009 to June 15, 2009. The parties agree, and the
3 Court finds and holds, as follows:

4 1. The production and review of discovery is currently ongoing. Only after evaluating the
5 evidence will counsel be in a position to evaluate any disposition. Counsel believes it is in her
6 client's best interest to negotiate the case pre-indictment, and she cannot do that without
7 evaluating the evidence.

8 2. Taking into account the public interest in the prompt disposition of criminal cases, the
9 parties agree, and the Court holds, that these grounds are good cause for further extending the
10 time limits for a preliminary hearing under Federal Rule of Criminal Procedure 5.1 and extending
11 the 30-day time period for indictment.

12 3. Failure to grant an exclusion of time for the requested continuance would deny counsel for
13 defendant the reasonable time necessary for effective preparation of counsel. 18 U.S.C. §
14 3161(h)(7)(B)(iv). Therefore, the Court finds that a further exclusion of time from May 15, 2009
15 to June 15, 2009, is warranted because the ends of justice served by the exclusion of time
16 outweigh the best interests of the public and the defendant in a speedy trial. 18 U.S.C. §
17 3161(h)(7)(A).

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1 4. Accordingly, and with the consent of the defendant, the Court (1) vacates the May 15,
2 2009 preliminary hearing date and sets a preliminary hearing date before the duty magistrate
3 judge on June 15, 2009 at 9:30 a.m., and (2) orders that the period from May 15, 2009 to June 15,
4 2009, be excluded from the time period for preliminary hearings under Federal Rule of Criminal
5 Procedure 5.1 and from Speedy Trial Act calculations under 18 U.S.C. § 3161(h)(7)(A) &
6 (B)(iv).

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8 STIPULATED:

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10 DATED: May 13, 2009

/s _____
RITA BOSWORTH
Attorney for Mario Juarez

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12 DATED: May 13, 2009

/s _____
KATHERINE DOWLING
Assistant United States Attorney

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14 IT IS SO ORDERED.

15 DATED: May 14, 2009


HON. JAMES LARSON
United States Magistrate Judge